Supreme Court, U.S.
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(3)

No. 99-1415

In The
Supreme Court of the United States

ROSS ADAMS,
Petitioner,

v.

DAVID & BARBARA DRISCOLL,
RUEL & PATRICIA GALBREATH,
Respondents.

On Petition For A Writ of Certiorari
To The United States Court of Appeals
For the Eleventh Circuit

PETITIONER'S REPLY BRIEF ADDRESSED TO NEW POINTS RAISED IN THE BRIEF IN OPPOSITION

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12 pp

In the interest of truth, the petitioner wishes to begin by stating his absolute apologies to the court for reporting in error in his petition for a writ of certiorari that the Driscoll's were residents of Florida. The petitioner assumes that counsel for the respondents correctly reported that the Driscoll's are from Alpharetta, Georgia, rather than Florida. Minor detail, but the petitioner believes it is important to get the facts straight.

The petitioner furthermore wishes to declare to the court the absolute truth and correctness of every other statement made in his original petition to the court. He furthermore wishes to dispute the claims of counsel for the respondents on a point by point basis, perhaps ending this fruitless conflict that, in all probability, resulted from a lack of communication between parties. It is quite inconceivable to the petitioner that the suit would have escalated to this level, and it is unfortunate that it has done so. These remarks are given candidly—dosed with the common sense and reason.

The first and most important point that the petitioner begs the court consider is that the facts are still in dispute in this case. Since truth seems to be a matter of perspective to respondents' counsel, the petitioner wishes to submit evidence to the court that clearly indicates that the facts are still in dispute, which would therefore entitle the petitioner a right to a trial by jury under the law.

In essence, counsel for the respondents alleges in his brief in opposition that the petitioner broke the law and is therefore should be punished. This is obviously reported in error. If the petitioner broke the law, why is it that no fines have ever been levied against him by any local, state or federal environmental authority? Why has he not been punished by a local, state or federal agency? As evidence for consideration, the petitioner wishes to submit a letter—from Molly P. Aldridge, Erosion & Sedimentation Control Officer for Union

County, State of Georgia:

Aldridge: "In mid-February, 1997, I became employed by Union County Commissioner Harold Cook as an Erosion & Sedimentation Control Officer. On 2-21-99, Commissioner Cook brought me an approved Erosion & Sediment Control Plan on this site to issue a Land Disturbing Permit. The plan had been approved by the Blue Ridge Mountain Soil & Water Conservation District. It had been signed by Jim Carey, District Conservationist USDA-NRCS. At the time, I did not even know where the site was much less the history of it. As I investigated this site I found there was some problems in the past. I met with Mr. Adams to explore ways to stabilize the site. He began to hydro-seed all disturbed areas. This had to be repeated several times to obtain a good cover. Sediment basins have been cleaned out through maintenance as required. Silt fences were installed in the beginning to help control the escape of sediment. Rip Rap has been placed in portions of the ditches. The grading on the site had taken place prior to my working with Mr. Adams to stabilize it. Over the course of time spanning between 2-21-99 and present date I have not observed any major additional grading by Mr. Adams. The grading I have seen take place has been by single family residences through individual lots that have been purchased. Since the time I began working with Mr. Adams, he has shown good faith if during a site visit a problem was found to work to correct it. I, as an independent contractor, have provided services to Union County for the implementation and enforcement of the Erosion and Sedimentation Control Ordinance from November 15, 1997 to present date."

This letter indicates that the petitioner was in good faith compliance with the rules set forth by the environmental authorities he knew. In fact, Ms. Aldridge's letter seems to indicate that the petitioner was cooperating—fully and immediately—with directions given to him by county authorities as they were issued. And he, with no other

worker employed to help him, implemented these erosion control measures Ms. Aldridge informed him of.

It was therefore quite a surprise to the petitioner to see the following statement in the respondents' brief stating that "the petitioner made the unconscionable demand that respondents make false statements to government regulatory officials to assist petitioner in avoiding an enforcement action." Reason dictates that this is incorrect: The petitioner clearly complied with directions given to him by government regulatory authorities, so there was obviously no need to hide or conceal anything as counsel for the respondents suggests. The petitioner declares and protests that he would never, never violate the law. As Ms. Aldridge's statement exemplifies, the petitioner made every attempt to fully comply with the issues brought to his attention by authorities. This is the fact that should be considered in this matter: No enforcement action has ever been taken against the petitioner—ever. The petitioner supposes this allegation on behalf the respondents is either a misperception of the petitioner's intentions or a flat falsehood planted deliberately to destroy the petitioner's character in the eyes of the court. But this is simply the petitioner's opinion of the matter. It is necessary to return issue at hand: Are the facts in dispute?

Rulings by two lower courts in favor of the petitioner and a ruling by Eleventh Circuit in favor of the respondents reasonably indicates that the facts are still in dispute. The petitioner also wishes to state that he complied with best management practices and obtained all required permits, when they were available to him. An NPDES permit has never been issued in the state of Georgia.

There are many statements in respondents brief of opposition that the petitioner finds issue with, but the most important issue is yet to be discussed: Why does respondents' counsel seem to be trying to

keep this case from going to trial? Is respondents' counsel wanting to collect a large sum of attorneys' fees maybe?

This second issue the petitioner wishes to discuss is of great importance. Contrary to the claims of respondents' counsel, court documents state that the petitioner has never waived his right to a trial by jury. In fact, he has requested it all along because there would be a lot to loose if this case ever went to trial, with a fair and impartial jury to evaluate the alleged "pollution" of the Driscolls' and Galbreaths' ponds. In fact, a photograph taken of one of the ponds in its "polluted" state seems to indicate that the aesthetic value (the value for which the respondents are suing) has been retained.

But even if the respondents are not satisfied with the condition of their ponds, the petitioner has offered—and still offers—to repair the ponds with his equipment (not septic tank equipment as respondents' counsel suggests). The fact that counsel does not know or understand that this equipment is not septic tank equipment is indicative of the fact that respondents' counsel is unfamiliar with professional development equipment used to build roads and make room for homes.

It is unfortunate that the Driscoll's and Galbreath's purchased land near a private piece of property that could be bought sold and developed. But it is the inevitable right of all Americans to purchase and enjoy land in the north Georgia mountains. National forest land borders the petitioner's property, so the land is even more beautiful and precious to the people who now live there. The Driscoll's and the Galbreath's still enjoy it too; they have not sold their property or relocated.

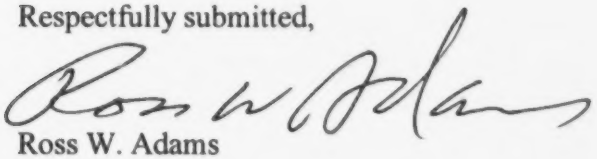
The petitioner apologizes to the court that he has no formal legal training to aid him in citing conflicts in the lower courts that would

justify a Supreme Court hearing in this case. But he does claim something of national importance: If we deny a common man his right to a trial by jury in a case where the facts are still in dispute, we degrade the law by denying rights guaranteed to him under the United State Constitution.

If respondents' counsel is allowed to set precedent with this case, then the petitioner fears that a string of injustices will occur that will further retard efforts to properly enforce the Clean Water Act. The Clean Water act was established to protect the waters of the United States from pollution—namely chemical and industrial waste, fertilizers and pesticides. The Clean Water act does not, and should never been applied in this case. It is nothing more than an attempt to extort money out of the petitioner, not a genuine commitment to environmental protection. *If this case was about environmental protection, respondents' counsel would let it go to trial.*

Therefore, the petitioner respectfully requests a trial-by-jury to settle this case, due to the large amount money respondents' and counsel are requesting of the petitioner and due to the fact that the facts are still in dispute. The petitioner duly declares before this court that he will be satisfied with a trial—whatever the outcome may be.

Respectfully submitted,



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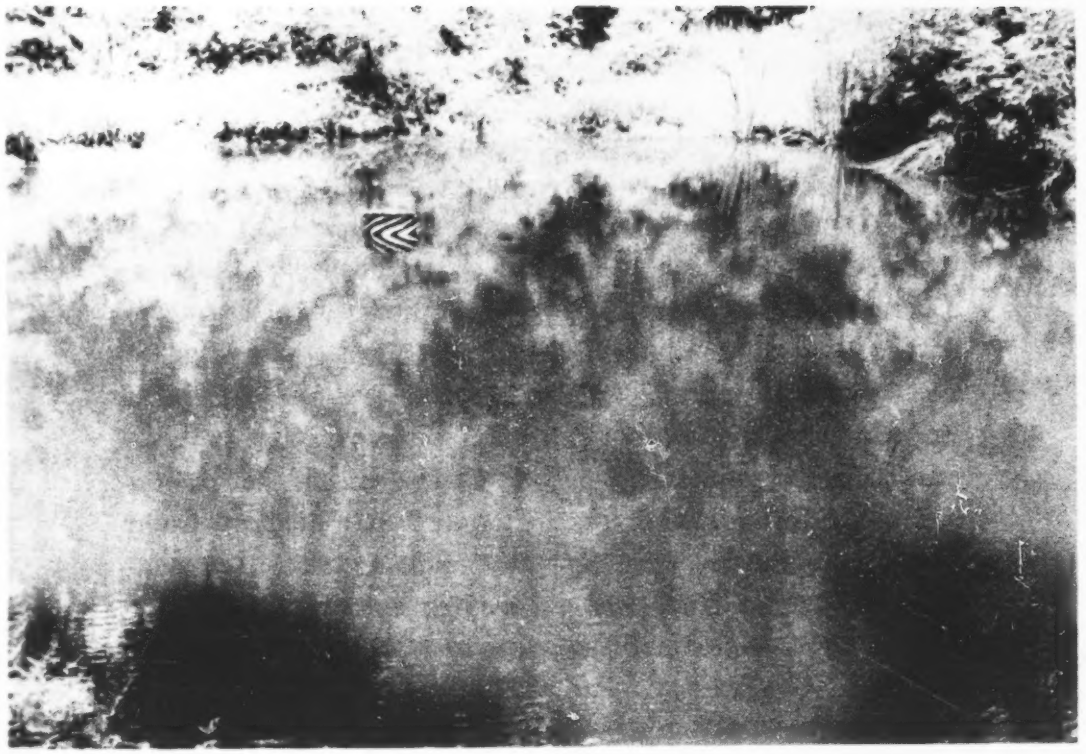
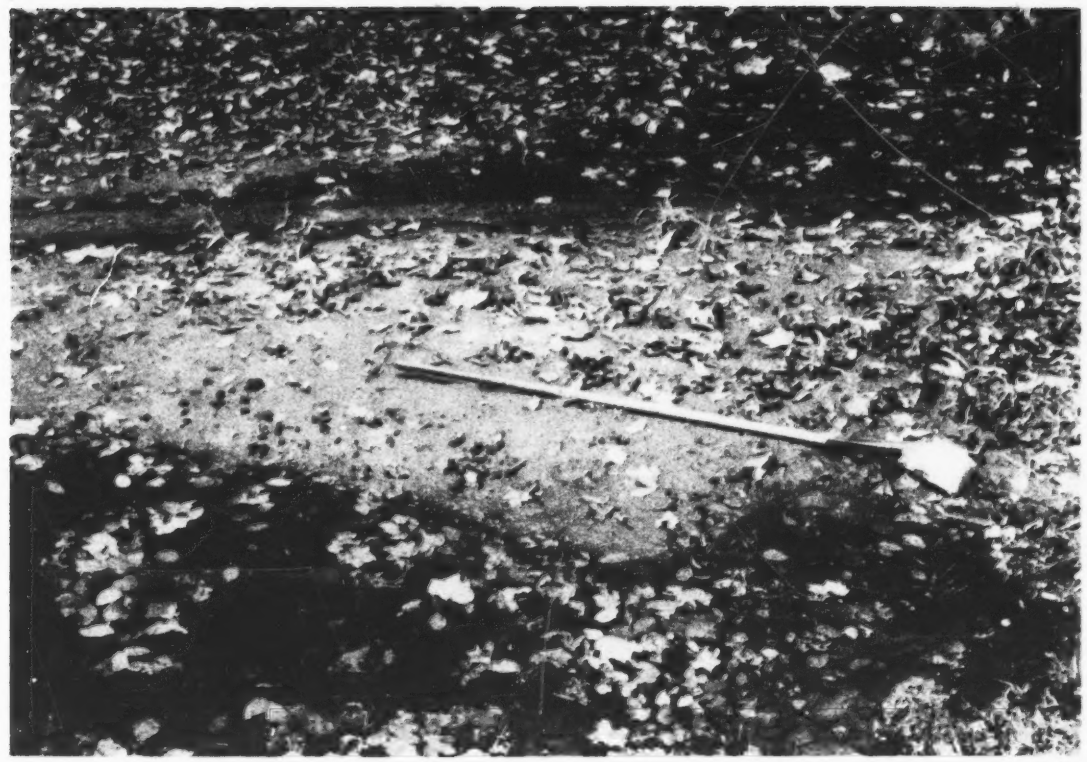
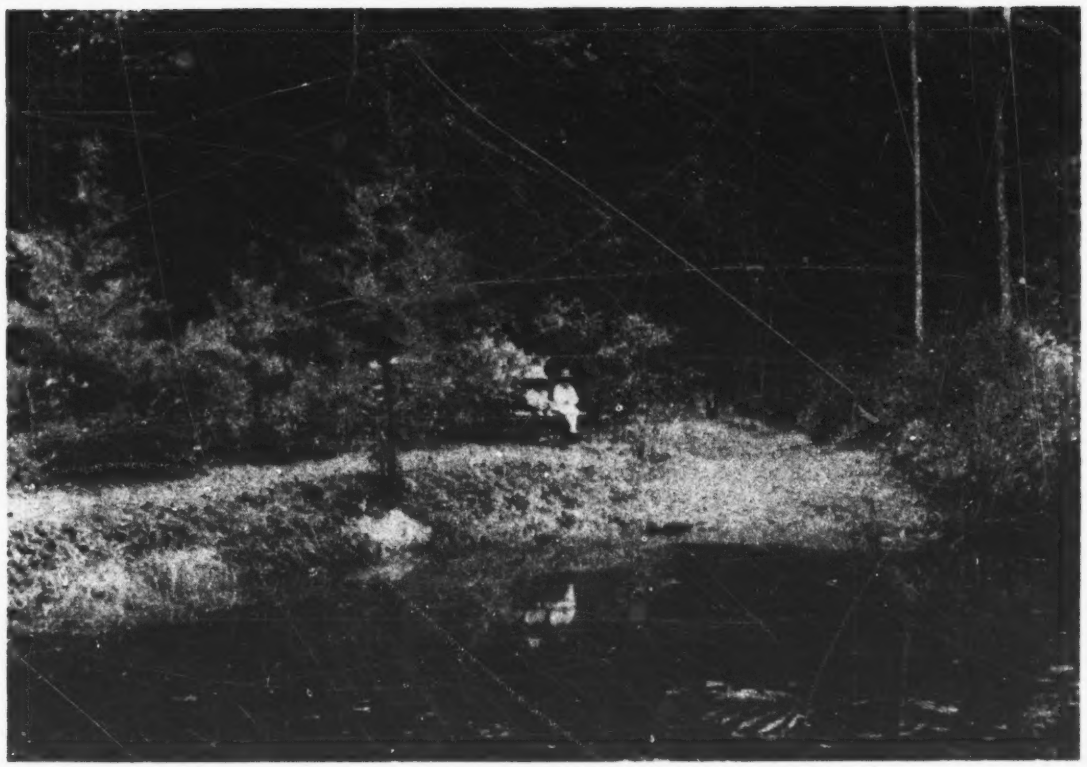


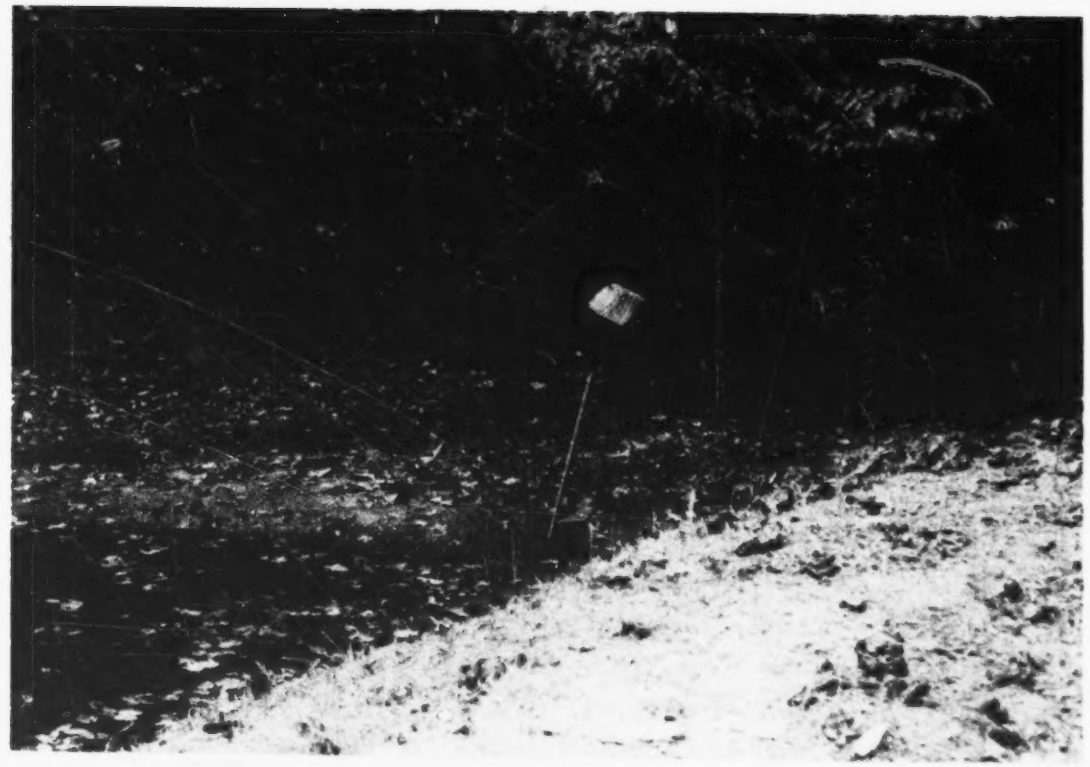
Picture Number 1 shows how small the Driscoll's pond is.



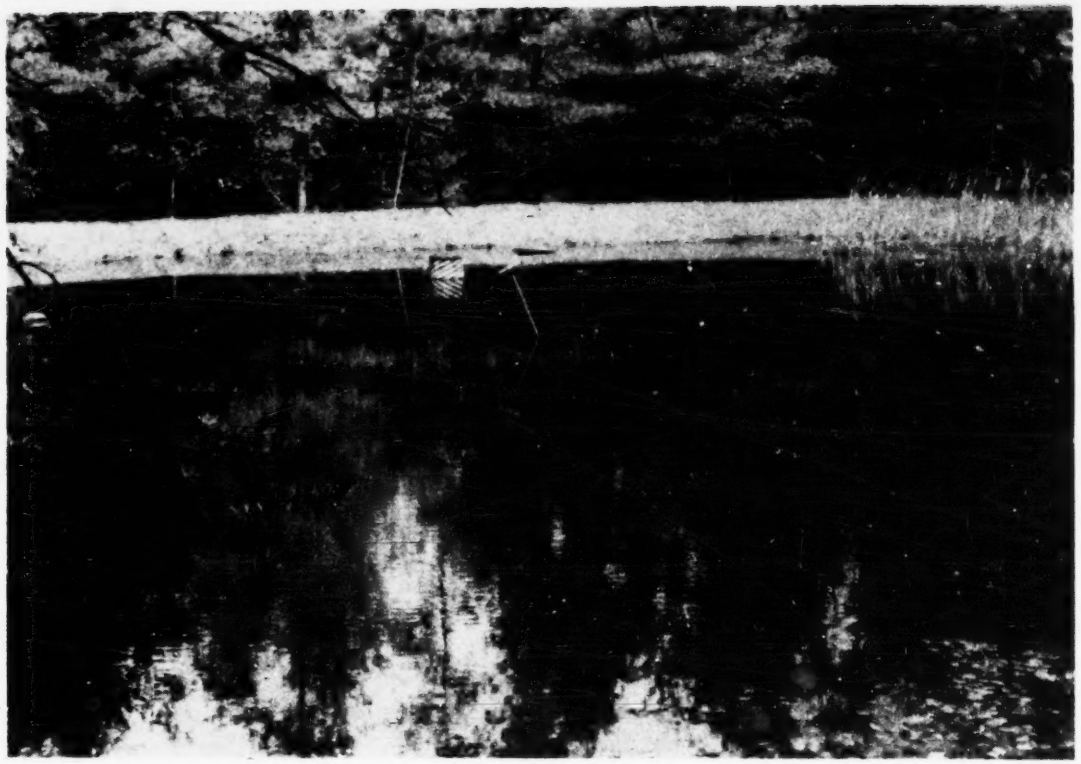
This picture shows the deposit of sediments in the upper end of the first pond (Driscoll's pond) in relation to a broom.



Picture 3 speaks for itself.



The broom is on the bottom of the pond.
The deposits that settled here are not significant.



This is the second pond (Galbreath's pond).
Deposits would have to fill up both ponds before they could continue downstream to U.S. waters.

Second view of depth of main deposits of sediments in the first pond. The deposits are minimal.